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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fifth session

SUMMARY RECORD OF THE 32nd MEETING IN 1990

Held at the Palais des Nations, Geneva,
on Thursday, 29 November 1990, at 10 a.m.

Chairman: Mr. KOUZNETSOV

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The meeting was called to order at 10.30 a.m.

CONSIDERATION OF REPORTS (agenda item 7) (continued)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 and 17 OF THE COVENANT

Jordan (E/1988/3/Add.38/Rev.1) (continued)

1. Mr. FOFANA read out his concluding observations on the initial report submitted by Jordan concerning rights covered by articles 13 to 15 of the Covenant. In his opinion, the Committee should thank the Jordanian delegation for having entered into a constructive and mutually beneficial dialogue and commend it for having provided supplementary information. The Committee should note, nevertheless, that Jordan's geographical location between Israel, Saudi Arabia and Iraq, the relative dependence of the Jordanian economy on pipeline transit dues, and the Gulf crisis, were all factors that exacerbated the difficulties involved in protecting the right to education. The simple listing of constitutional principles and the description of national educational policy which formed the substance of the report did not suffice to give the Committee a true sense of the situation of education. Accordingly, the Committee should note with satisfaction the firm commitment made by the representative of the Jordanian Government to provide it as soon as possible with the answers to the list of questions sent by the secretariat on 31 October 1990. It should stipulate that no final evaluation of the report could be made until those answers, and any other clarification deemed necessary, had been received.

2. Mr. WIMER ZAMBRANO said he agreed with the substance of Mr. Fofana's comments, namely, that the Committee did not have sufficient information to permit it to formulate its conclusions on the report. He would prefer, however, to delete the references to political and geographical factors.

3. Mr. MARCHAN ROMERO said the Committee should not lay undue stress on the answers given by a State party to the list of questions: otherwise, there would be no point in a State sending representatives to engage in dialogue. The Committee had already encountered similar problems with reports, but it had never before made observations like the ones offered by Mr. Fofana. They broke with precedent and were discriminatory.

4. Mr. WIMER ZAMBRANO said that it was true that the dialogue had been valuable, but the fact remained that a part of the information required by the Committee was missing. The Committee's working methods were evolving, and it should not be afraid of modifying the approach it had used in certain situations if such modification now appeared justified.

5. Mr. ALSTON strongly endorsed that remark: the Committee must do everything it could to refine and improve its working methods. The situation was not entirely analogous with the ones the Committee had encountered in the past, for its newly established procedure had been frustrated by the inability of the State party to respond to questions the Committee considered fundamental. The efforts made by the pre-sessional working group had been entirely in vain.

6. The consideration of the Jordanian report had been on the level of a pleasant chat rather than intense supervision of compliance with treaty obligations solemnly undertaken by States. That kind of problem had arisen before and might now be resolved by revising the guidelines to make them much more specific.

7. The Jordanian representative's lack of preparation vis-à-vis answering the Committee's list of questions also revealed that the Government of Jordan had made no effort to acquaint itself with the Committee's established procedures.

8. He endorsed the observations put forward by Mr. Fofana.

9. Mr. SIMMA said he agreed with the comments made by Mr. Alston. Jordan was the first country to which the list of questions had been sent well in advance. The Committee had anticipated receiving full and specific replies to those questions, yet none of them had been answered satisfactorily. The consideration of the report could not be said to have been successfully completed. The Committee was therefore justified in taking a strong stand regarding the treatment that should be given to its list of questions.

10. Mr. MRATCHKOV said he endorsed Mr. Fofana's comments and had a number of additional observations to offer. Firstly, the Committee should express its regret that the Jordanian delegation had not replied to the questions drafted by the pre-sessional working group: he agreed with Mr. Alston and Mr. Simma on that point. Second, it should be noted that the Committee had nevertheless received answers to the questions it had raised during the actual discussion of the report. Finally, because the Committee had received no response to its most important queries, it could draw no conclusions on the way in which articles 13 to 15 were being implemented.

11. One general observation that arose from the report's consideration was the clear need for government representatives to be experts in the areas covered by the report so that they could give the most detailed information possible. That need would become even more acute when the new guidelines went into effect.

12. Mr. MARCHAN ROMERO said a further general observation should state that the Committee was making every effort to improve its working methods.

13. Mr. MUTERAHEJURU pointed out that the Committee's observations should come as no surprise to the representative of Jordan, for all members had expressed regret over the fact that he had not received the list of questions. It should be noted that the pre-sessional working group's activities were part of the Committee's established procedures, as authorized by the Economic and Social Council. He supported the observations made by Mr. Fofana.

14. Mr. ALSTON said he greatly appreciated and endorsed the comments made by Mr. Mratchkov.

15. Mr. RATTRAY said that he wished to make the following concluding observations concerning the Committee's consideration of the report of Jordan. Members of the Committee expressed their appreciation to the

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Government of Jordan for its report on the rights covered by articles 13 to 15 of the International Covenant on Economic, Social and Cultural Rights and the further elaboration provided by its representative. They regretted that the representative of Jordan had been unable to reply to the list of issues prepared by the pre-sessional working group as part of the established procedure for deepening the dialogue with reporting States, since he had indicated that he had seen the list for the first time that morning. Without those replies, it was not possible to have a meaningful assessment of the full extent to which the rights covered by articles 13 to 15 were being implemented in Jordan. Members welcomed the representative's offer to provide written answers to those questions at a later date and expressed the hope that the responses would be submitted as early as possible.

16. Members had noted that significant advances had been made in the field of education in Jordan since independence and had expressed concern regarding the consequences of the crisis in the Gulf for the effective realization of economic, social and cultural rights.

17. Although detailed information was provided in the report on the school population there was no indication of the percentage of children of school age who were in school at the present time. Such information would provide a useful bench-mark in assessing the effectiveness of the outreach of education and of compulsory education, in particular, and the percentage of children who had completed primary and secondary education.

18. Members took note of the fact that female teachers far outnumbered their male counterparts and that the relatively unattractive salaries had prevented many highly qualified persons from entering the teaching profession. Members considered that the substantive content of the right to education could be adversely affected if highly qualified persons could not be recruited for teaching and that that problem, which was widespread throughout the world, should be adequately addressed. The question was raised whether the equality of opportunity ordained by the Covenant would be affected by the disparities in the quality of education in private schools as compared with State schools.

19. Members noted with satisfaction the efforts being made to integrate Palestinians and refugees within the educational framework despite the difficult situation existing in the occupied territories and exhorted the Jordanian authorities to intensify their efforts to ensure that all disadvantaged groups would fully enjoy the right to education.

20. Mrs. JIMENEZ BUTRAGUEÑO said that she agreed with the views expressed by Mr. Muterahejuru. She wished to point out that it was difficult for representatives of States parties to reply to the various questions on the spot; she was sure that the representative of Jordan would have provided more adequate answers if he had been allowed to reply on the following day.

21. Mr. TEXIER recalled that the Committee's decision to establish a pre-sessional working group which would meet at least one month prior to the Committee's session had been endorsed by the Economic and Social Council. The Committee had considered that the list of issues drawn up by the pre-sessional working group should be sent to the Permanent Missions of the States concerned in order to enable them to reply to questions during the Committee's examination of their reports.

22. He asked whether the secretariat had been able to publicize the changes made in the Committee's working methods. In that connection, he recalled the statement by the representative of Jordan that he had received the list of issues only some minutes before the meeting. The list of issues should be sent sufficiently in advance of the Committee's meeting so that Governments could prepare their replies. He would like to know whether the secretariat could inform members specifically what measures had been taken to improve the dialogue between the Committee and the reporting States.

23. The CHAIRMAN said that the Committee had been informed on the previous day by the representative of the Secretary-General that the list of issues was transmitted to the Governments of all reporting States sufficiently in advance of the Committee's session.

24. Mr. SPARSIS said that while it was true that the States parties should follow the work of the Committee, the secretariat should publicize the new working method adopted. He wondered whether the secretariat could obtain from the States parties an acknowledgement that they had received the list of issues. In that way, if no reply was forthcoming from the member State concerned after one or two weeks, the secretariat would be aware that something was amiss and take the necessary action.

25. The CHAIRMAN said that the secretariat would take the point raised by Mr. Sparsis into account. The letter accompanying the questionnaire could include a statement to the effect that if no reply was forthcoming within two weeks, for example, a reminder would be sent to the State concerned.

26. Mr. GLAIEL noted that there was general agreement in the Committee on the matter and that during the discussion the previous day all members had welcomed the report by Jordan. Furthermore, the representative of Jordan had expressed his country's good will and desire to co-operate with the Committee.

27. The Committee should adopt realistic recommendations, express its satisfaction with the report by Jordan and at the success achieved by that country in education, and point out that the representative of the State party had promised to provide additional information.

28. Mr. NENEMAN said that it would be reasonable for the Committee to state, at the current stage, that it had received an adequate report describing the way in which the right to education was being implemented in Jordan, but that it would have to postpone its final evaluation until it received written answers to the list of issues it had addressed to the Government of Jordan.

29. Mr. WIMER ZAMBRANO said that members were generally in agreement. He recalled that the previous day they had congratulated the representative of Jordan on his presentation. He therefore thought that any pejorative allusions concerning the report of Jordan and the presentation by the representative of the State party should be struck from the record.

30. Mr. ALSTON said that he was not in favour of striking anything from the record.

31. Mr. SIMMA said that he had found the replies by the Jordanian representative quite satisfactory and had been impressed by his knowledge of the educational system in that country. However, that did not change the fact that none of the core issues in the questionnaire transmitted to the Government had been addressed.

32. Mr. WIMER ZAMBRANO said that he wished to make it clear that he was merely requesting that certain points which had been discussed in the Committee and which were not related to the issue should be deleted from the record.

33. The CHAIRMAN said that members should bear in mind that they were seeking ways in which to improve their working methods. They all agreed on the importance of having a dialogue with reporting States and on the fact that the representative of Jordan had expressed his desire to maintain that dialogue with the Committee. The representative had sought to answer the many questions put to him. However, none of the issues referred to in the questionnaire had been addressed and that fact should be reflected in the final version of the concluding observations. It could request Mr. Alston, as Rapporteur, to take account in preparing his report, either independently or in conjunction with Mr. Fofano, of all the views expressed by members on the subject.

34. Mr. ALSTON said that the normal procedure was to entrust the Rapporteur with the task of drafting a text to reflect the discussion which had taken place. He did not feel that there had been any significant divergence of views among members, who, in any case, would have an opportunity to review the text before it was adopted. It should perhaps be clarified that in the final phase of the Committee's consideration of a report, although the representative of the State party concerned was invited to be present, he was not expected, unless there were exceptional circumstances, to speak again.

35. Mr. GLAIEL said the text should make it clear that the representative of Jordan had not replied on the list of issues because he had not received it.

36. The CHAIRMAN said that the Rapporteur would formulate the draft conclusions on the Jordanian report. He did not know whether the circumstances could rightly be termed "exceptional", but he would like to ask the representative of Jordan whether he wished to address the Committee.

37. Mr. GLAIEL said he could see no difficulty about the representative of Jordan being invited to speak.

38. Mr. SIMMA pointed out that the part of paragraph 29 of the Committee's report on its fourth session (E/1990/23) that referred to the procedure followed during the final phase of the Committee's examination of a State party report read "The Committee invited the representative of the State party concerned to be present during this phase and the possibility was foreseen for the Committee to invite additional brief observations to be submitted by the representative if he or she so requested".

39. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished, on the basis of the procedures set out in paragraph 29 of the Committee's report on its fourth session (E/1990/23), to invite the representative of Jordan to take the floor.

40. It was so decided.

41. Mr. MATALGAH (Jordan) noted that the Committee had laid considerable stress on the absence of replies to the list of issues, although it had been informed that his delegation had never received it. He wished to remind the Committee that his delegation had promised to send it the answers to the list of issues in writing before the end of its current session. He added that a first perusal of the questions suggested that the authors were not well acquainted with Jordan's position. Issue No. 6 referred to a non-existent pipeline between Israel, Saudi Arabia and Iraq.

42. In conclusion, he wished to repeat that it was his country's desire to co-operate fully with the Committee.

43. The CHAIRMAN thanked the representative of Jordan for his comments and said that the Committee had thus concluded its consideration of the initial report of Jordan.

44. Mr. Matalgah (Jordan) withdrew.

ACTION BY THE ECONOMIC AND SOCIAL COUNCIL AT ITS FIRST SESSION OF 1990; THE GENERAL ASSEMBLY AT ITS FORTY-FIFTH SESSION; AND THE COMMISSION ON HUMAN RIGHTS AT ITS FORTY-SIXTH SESSION (agenda item 5)

45. Mr. ALSTON, introducing agenda item 5, said that it had been added to the Committee's agenda in order to bring the Committee into line with the Human Rights Committee and other committees.

46. He wished first to discuss the Committee's relationship with the Economic and Social Council and secondly to point out important aspects of various Council and Commission resolutions. He recalled that at its previous session the Committee had expressed the feeling that it did not have much feedback from its superior bodies. It had therefore agreed to ask the Economic and Social Council to invite a Committee member to be present when the Committee's report was discussed. That decision had been linked with the fact that the Council was undertaking its five-yearly review of Committee procedures. Accordingly, he had attended the May 1990 session of the Council in New York. At the formal level, the Council had merely noted the Committee's report and there had been very few comments on it. It might be taken that the Council was on the whole content with the Committee's work and that there would be no serious discussion about it unless States parties to the Covenant expressed dissatisfaction.

47. Accordingly, the most important indication of the attitudes of the superior bodies was the resolutions addressed to the Committee. The Commission on Human Rights had no official role to play in the Committee's work, since the latter reported direct to the Economic and Social Council. However, several of the resolutions of the Commission's most recent session referred to the Committee.

48. Commission resolution 1990/15 on human rights and extreme poverty affirmed that extreme poverty constituted a violation of human dignity - perhaps there was some reluctance to say that extreme poverty might involve a violation of human rights. The resolution went on to urge the Committee to give the necessary attention, in its work, to the question of extreme poverty and exclusion from society. In response to that invitation, the Committee might consider the addition of suitable language to its guidelines and make some reference to it in the lists of issues prepared for the consideration of reports.

49. In Commission resolution 1990/17 the Committee was invited to continue to develop as a matter of priority its general guidelines for the preparation of reports pursuant to articles 16 and 17 of the Covenant. In his view, it was imperative that the Committee should adopt such guidelines at its present session. The resolution gave strong general endorsement to the Committee's practice of general comments and many of its paragraphs dealt with human rights in the areas of technical assistance and development.

50. In operative paragraph 5 of resolution 1990/17, the Commission also welcomed the Committee's dialogue with Mr. Türk, the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the realization of economic, social and cultural rights. In operative paragraph 9 of that resolution the Commission welcomed the Committee's decision to devote one day at each of its sessions to a general discussion of one specific right or a particular article of the Covenant, and urged States parties, the specialized agencies and non-governmental organizations to contribute actively to the Committee's work. That was a reassuring endorsement of the Committee's open approach to its work.

51. Operative paragraph 12 of that resolution requested the Secretary-General to consult the Committee with a view to eliciting its recommendations as to how the programme of advisory services could best be used. At the meeting of chairpersons of the human rights treaty-monitoring bodies, scepticism had been expressed as to the cost-effectiveness of some of the major regional seminars conducted as means of promoting understanding of the International Covenants on Human Rights, and the suggestion had been made that it would be better to hold small workshops at the national level led by 2 or 3 experts, at which intensive training could be given to 20 or 30 officials. It would be useful if the Committee were to endorse that proposal in its conclusions.

52. In resolution 1990/45 the Council invited the Commission to consider requesting the Secretary-General to devote a seminar, under the United Nations programme of human rights activities for the biennium 1992-1993, for the discussion of appropriate bench-marks to measure achievements in the progressive realization of the rights recognized in the International Covenant on Economic, Social and Cultural Rights. It would therefore be useful for the Committee to hold a specialist seminar relating to social and economic indicators, a matter that would be discussed during the third week of its present session.

53. In operative paragraph 14 of that resolution the Council specifically encouraged all Governments to publicize the texts of the Covenants; he wished to suggest that the Committee should raise that issue with contracting States.

54. Commission resolution 1990/18 on the right to development emphasized the desirability of strengthening the existing, or creating possible new, mechanisms for the promotion and protection of human rights in the context of the right to development, and reiterated the need for a continuing evaluation mechanism. That was the resolution to which Mr. Simma had referred in connection with a possible role for the Committee on the right to development.

55. It was important that the Committee's report should contain a section indicating that members had reviewed developments in the relevant bodies and containing any additional comments made by members.

56. Mr. TEXIER agreed that it was essential that in its report the Committee should stress its attentiveness to the comments of the Economic and Social Council and the Commission on Human Rights. It was, however, disappointing that the Council had said so little about the Committee's work.

57. Commission resolution 1990/15 was particularly important, but it was necessary to go even further and to characterize extreme poverty as a grave violation of human rights, or indeed, as one non-governmental organization had done, as a violation of all human rights. Extreme poverty was being experienced not only in the third world but also in rich Western societies. A fourth world was gaining ground everywhere. It was necessary to ask States what they were doing to combat that evil.

58. Turning to the other resolutions mentioned by Mr. Alston, he drew attention to paragraph 9 of Commission resolution 1990/17 and pointed out that progress in that regard could only be achieved by dialogue with experts on specific rights.

59. Concerning the Committee's possible role in discussions on the right to development, he wondered whether the necessary technical competence was available among members, although the Committee could, of course, call on outside expertise.

60. Mr. RATTRAY endorsed those views. In connection with Commission resolution 1990/15, he agreed that extreme poverty was indeed an offence against human dignity. In some jurisdictions, persons were pleading that they were not criminally accountable for their actions in certain cases of extreme poverty or social deprivation. Although such arguments were not yet fully accepted and were indeed those of a minority, they did herald the beginnings of a new jurisprudence. States would have to recognize that the whole social fabric and jurisprudential background would be under siege if no answers were found to the problem of extreme poverty.

61. Mr. ALSTON recalled that a suggestion had been made some years previously that there was a right to loot in situations where there was no other way of obtaining food for survival.

62. He suggested that the Committee should include in its report a formal request to the Secretary-General that summary records of the Commission on Human Rights and the Economic and Social Council containing specific reference to the work of the Committee should be made available to members of the Committee at each session.

63. Mr. HOUSHMAND (Representative of the Secretary-General) recalled that at each session of the Commission on Human Rights the agenda contained an item dealing with International Covenants on Human Rights, under which the Committee's report was made available. If there was any particular reference to the Committee in the Commission's discussion, the secretariat would be happy to make extracts of the relevant summary record and bring them to the Committee's attention. However, as far as the Economic and Social Council was concerned, the Committee's report was not considered by the Council in plenary, but was referred to the Social Committee, which did not have the benefit of summary records. It would therefore be very difficult for the secretariat to meet Mr. Alston's request in respect of the discussion at the Council. The only information available would be the resolutions proposed by the Social Committee.

64. Mrs. JIMENEZ BUTRAGUEÑO thanked Mr. Alston for the information he had provided. She was very interested in the issues of extreme poverty, foreigners, a vulnerable group, and the elderly who often faced problems of health and solitude. She therefore believed that the Committee should give attention to that matter.

65. Mr. ALSTON said that he was aware that the Social Committee of the Economic and Social Council had no summary records, but it was possible that mention might be made of the Committee on Economic, Social and Cultural Rights in the plenary of the Council, which did have summary records. He therefore hoped that the secretariat would review the relevant summary records and see whether there was any mention of the Committee in them.

66. Mr. HOUSHMAND (Representative of the Secretary-General) said that for the last two years the Economic and Social Council had discontinued the discussion of items on human rights in plenary. None the less, the secretariat would be happy to scan the records to see if any points of interest to the Committee were made, and inform members accordingly.

ORGANIZATION OF WORK (continued)

67. Mr. TIKHONOV (Secretary of the Committee) announced that a message had beeen received from the Permanent Mission of Peru to the United Nations, that Mr. Alvarez Vita's arrival had been delayed for reasons of health.

The meeting rose at 12.55 p.m.